

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER AFTER POST-TERMINATION REVIEW/ PERMANENCY PLANNING HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 1 ORDER ____ OF ____	CASE NO. PETITION NO.
Court address		Court telephone no.

1. In the matter of
name(s), alias(es), DOB

2. Date of hearing: _____ Judge/Referee: _____ Bar no.

3. Last permanency planning hearing date: _____ (specify for each child if different)

4. Parental rights to the above named child(ren) was/were previously terminated.

5. Notice of hearing for the ☐ review ☐ permanency planning ☐ combined review and permanency planning hearing was served as required by law.

6. The court has considered the permanency plan and other evidence presented. The findings below are specific to this case and are based upon this hearing, and ☐ the following report(s): _____
identify report(s) and date(s) of report(s)

THE COURT FINDS:

7. A ☐ review ☐ permanency planning ☐ combined review and permanency planning hearing was conducted.

8. The lawyer-guardian ad litem ☐ has ☐ has not complied with the requirements of MCL 712A.17d.

9. Reasonable efforts ☐ have ☐ have not been made to finalize the court-approved permanency plan of

☐ a. legal guardianship for the child(ren) named _____.

☐ b. adoption for the child(ren) named _____.

☐ c. placement with a fit and willing relative for the child(ren) named _____.

☐ d. placement in another planned permanent living arrangement, identified as _____.

_____, due to the compelling reasons that
 (provide the name of each child and then specify the compelling reasons for another planned permanent living arrangement for each child, as appropriate, by entering the language that corresponds to the number[s] from the list on page 2)

The reasonable efforts made to finalize the court-approved permanency plan identified above include:
 (specify the permanency plan for each child and the reasonable efforts made toward finalizing that plan)

10. Progress toward the child(ren)'s adoption or other permanent placement ☐ was ☐ was not made in a timely manner.

11. The child(ren)'s continued placement ☐ is necessary and appropriate and is meeting the child(ren)'s needs.
☐ is no longer necessary or appropriate.

12. The permanency planning goal ☐ is ☐ is not appropriate.

(SEE SECOND PAGE)

USE NOTE:

Use this form for post-termination review hearings, post-termination permanency planning hearings (except for the initial), or a combination of both in accordance with MCL 712A.19c.

Do not write below this line - For court use only

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER AFTER POST-TERMINATION REVIEW/ PERMANENCY PLANNING HEARING (CHILD PROTECTIVE PROCEEDINGS), PAGE 2 ORDER ____ OF ____	CASE NO. PETITION NO.
Court address		Court telephone no.

In the matter of

IT IS ORDERED:

- I** ☐ 13. The child(ren)'s commitment to the Department of Human Services for permanency planning, supervision, care, and placement under MCL 400.203 continues.
- H** ☐ 14. The Department of Human Services shall make reasonable efforts to finalize the permanency plan for each child.
- I** ☐ 15. The child(ren) has/have been adopted and the jurisdiction of this court is terminated.
- I** ☐ 16. The jurisdiction of this court is terminated due to the child(ren)'s age(s).
- ☐ 17. Other:

J 18. The next post-termination review hearing will be held _____ .
 Date

Date

Judge

The following list are examples of compelling reasons for a permanency plan other than return to parent, legal guardianship, placement with a fit and willing relative, or adoption.

1. No relative has been identified who is appropriate or available to assume the permanent custody of the child.
2. The current caregiver is not an adoptive resource.
3. The child has a significant attachment to the parent(s), and it is in the child's best interests that it be preserved through parenting time and contact.
4. Reasonable efforts to recruit an adoptive home have been unsuccessful.
5. The child does not want to be adopted and is of an age where due consideration must be given to his/her wishes.
6. It is contrary to the child's best interests to break the child's attachment to the current caregivers.
7. The current caregiver is committed to providing a permanent placement for the child.
8. The placement allows the siblings to remain together.
9. The child's special needs can best be met in this placement.
10. The child wants to remain in the current placement, which is only available as foster care.
11. The placement is preparing the child for transition into independent living (specify the services being provided to the child to assist with transition such as referral to an independent living skills program, enrollment in a vocational program, referral for a mentor, continued out-of-home placement in foster care beyond age 18 to allow the child to complete secondary school, placement in a resource that provides on-site training for independent living, and other similar services).
12. The child comes under the Indian Child Welfare Act, and the child's tribe recommends permanent placement in long-term foster care.
13. Other (specify in the findings in item 9d).

Instructions for Using JC 76

This form is designed to be used in cases in which **both** termination of parental rights has occurred and the initial permanency planning hearing has been held. It may be used when the court desires to combine a post-termination review required by MCL 712A.19c with a subsequent permanency planning hearing required by MCL 712A.19a. Post-termination reviews are required every 91 days **after the termination of parental rights** for the first year, and every 182 days thereafter for children in foster care who are not placed with a relative or in a permanent foster family agreement. Those placed with a relative or in a permanent foster family setting are required to have review hearings at least every 182 days while under DHS's jurisdiction. PPHs are required within 12 months of a child's **removal** and every 12 months thereafter.

- A** 2-3. The date of hearing and removal date are key elements because MCL 712A.19a requires that the court “conduct a permanency planning hearing within 12 months after the child was removed from his or her home.” Further, subsequent PPHs are required within 12 months of the previous hearing, so the removal date is key for the first PPH, and subsequent PPHs are scheduled from the first PPH date.

The requirement for a court to hold a PPH within 12 months after removal exists regardless whether parental rights have been terminated. If parental rights have been terminated, the court is also required to hold a post-termination hearing every 91 days following the termination for the first year and then every 182 days thereafter.

Item 3 includes a line for the court to indicate the date the last PPH was held, and prompts the court to make note of those dates for each child. For cases that involve separate children, this is the court's opportunity to establish the same PPH date so that subsequent PPHs for the same children can be accomplished at the same hearing. Even if one or more of the children are not scheduled for a PPH yet, this provision allows the court to include that child to synchronize subsequent PPHs with those for other children from the same family.

- B** 5. Notice for PPHs is governed by MCL 712A.19a, which requires written notice of the hearing not less than 14 days before the hearing is scheduled. See also MCR 3.921(B)(3) and MCR 3.920(E), which allows for written waiver of notice.

Notice for post-termination review hearings must be provided to the foster parents (if any) and any preadoptive parents or relative providing care to the child. MCR 3.978(B).

The options regarding notice make it clear that the hearing being held is either a post-termination review hearing, a PPH, or a combined hearing.

- C** 6. When making determinations at a PPH, the statute requires the court to consider any written or oral information concerning the child. This provision allows the court to identify what reports the court relied on in reaching its findings. In addition, 45 CFR 1356.21(d) requires a judicial determination that reasonable efforts have been made to finalize a permanency plan be explicitly documented and made on a case-by-case basis.

Instructions for Using JC 76 (continued)

- D** 8. MCL 712A.17d requires the lawyer-guardian ad litem (L-GAL) to meet with or observe the child before a PPH or post-termination review hearing. This new provision requires the court to determine whether such contact or observation has occurred. L-GALs are required to meet with or observe the child in the following instances:
- a. Before the pretrial hearing
 - b. Before the initial disposition, if held more than 91 days after the petition has been authorized
 - c. Before a dispositional review hearing
 - d. Before a permanency planning hearing
 - e. Before a post-termination review hearing
 - f. At least once during the pendency of a supplemental petition
 - g. At other time as ordered by the court

Adjourned or continued hearings do not require additional visits unless ordered by the court, and the court may also order alternative means of contact with the child if good cause is shown on the record to do so.

- E** 9. These specific findings are required for Title IV-E eligibility. 45 CFR 1356.21(b)(2)(i) states that “[t]he State agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve months of the date the child is considered to have entered foster care . . . and at least once every twelve months thereafter while the child is in foster care.” Not only must the court find that reasonable efforts have been made to finalize the permanency plan, but it must also explicitly document that determination on a case-by-case basis. 45 CFR 1356.21(d). In addition, MCR 3.976 requires that the court determine whether the agency has made reasonable efforts to finalize the permanency plan, and identify what that plan is.

If the court finds as part of a permanency planning hearing that placement in another planned permanent living arrangement is the appropriate permanency plan for the child (as opposed to adoption, reunification, legal guardianship, or placement with a fit and willing relative), federal regulations require that the state must document to the court **the compelling reasons** for the alternate plan. In other words, the federal regulations encourage any other permanency plan before “another planned permanent living arrangement.”

The federal regulations give some examples of what can constitute compelling reasons to support another planned permanent living arrangement as the permanency plan for a child. The examples cited in the federal regulations include: “i) the case of an older teen who specifically requests that emancipation be established as her/her permanency plan; ii) the case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child’s foster parents have committed to raising him/her to the age of majority and to facilitate visitation with the disabled parent; or, iii) the Tribe has identified another planned permanent living arrangement for the child.” 45 CFR 1356.21(h)(3). A more extensive list of compelling reasons is listed at the end of this form.

Instructions for Using JC 76 (continued)

Note there is no option to find reasonable efforts have been made to finalize a permanency plan of **reunification**. This hearing is a post-termination hearing, and reunification would no longer be a viable permanency plan.

- F** 10. MCL 712A.19c(1)(c) requires the court to review whether “reasonable efforts are being made to -place the child for adoption or in other permanent placement in a timely manner.” See; also; MCR 3.978(A) and (C).
- G** 11-12. These provisions include language drawn from MCL 712A.19c(1)(a) and (b), which require the court to review the appropriateness of the child’s placement and permanency planning goal.
- H** 14. This provision allows the court to affirmatively order DHS to make reasonable efforts to finalize the permanency plan; in the event it has not happened to date or if the court finds those efforts need to continue.
- I** 13, 15-16. These provisions offer the main dispositions a court will find at this hearing: either the child has been adopted, the child ages out of the court’s jurisdiction, or the child continues under the custody of DHS.
- J** 18. This item allows the court to set the next hearing with all parties present, and provide notice in that manner (by copy of the order). There is no space for scheduling a PPH because the next review hearing will be required within 182 days; the next PPH will not be necessary for another 12 months.